



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-1370 FAX (603) 271-1381



March 5, 2003

Mr. John Galloway
Galloway Trucking
226 Plaistow Road
Plaistow, New Hampshire 03865

CERTIFIED MAIL (7099 3400 0003 0687 1816)
RETURN RECEIPT REQUESTED
NOTICE OF PAST VIOLATION

Re: Non-Conforming Open Burning

Dear Mr. Galloway:

On August 20, 2002, the New Hampshire Department of Environmental Services, Air Resources Division ("DES") was notified that the Plaistow Fire Department had responded to an open burning incident at 226 Plaistow Road, Plaistow, NH (the "Property"). Discarded office furniture, tires, used oil filters, brake parts and assorted containers and spray cans had been burned. The Fire Department extinguished the fire and notified the Plaistow Code Enforcement Officer, who in turn notified DES. The Fire Department identified Mr. John Galloway as the property owner and the person responsible for the burning of the non-conforming materials at the Property. Mr. Galloway had not received prior approval for open burning or obtained any burn permits.

On September 11, 2002, after receiving additional information from the Plaistow Code Enforcement Officer, DES personnel conducted an inspection at the Property in order to determine conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and RSA 125-C. On September 11, 2002 DES personnel also spoke with Mr. Galloway by telephone. As a result of the inspection and information gathered, DES has determined that violations had occurred.

The purpose of this letter is to notify you of the violations discovered, as well as the requirements surrounding open burning, so that you can prevent future violations. The specific violations are as follows:

Env-A 1001.03 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.03 (c)(2) allows periodic on-site burning of brush by the landowner and Env-A 1001.03 (c)(4) allows the burning of untreated wood from the construction or demolition of a building. The burning of materials other than brush and untreated wood is a violation of Env-A 1000.

- Env-A 101.54 defines "brush" as tree tops, limbs, saplings and tree cuttings that are five inches in diameter or less.

Env-A 101.286 defines "untreated wood" as any timber, board or sawn dimensional lumber, which has not been treated, coated or preserved.

- Env-A 1001.05 provides that no tires, tubes, or any portion thereof shall be burned in the ambient air at any place in the state for any reason.

Since the burning of non-conforming materials has ceased, DES believes that no further action is required at this time in response to the listed violations. However, in the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fines, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Joseph Ritz at (603) 271-1391, Air Resources Division, Compliance Bureau. A current copy of the Air Resource Division rules can be obtained from the DES website at <http://www.des.state.nh.us/ard/ardrules.htm>, or by contacting the Public Information Center at (603) 271-2975.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enclosure: Env-A 1001, *Open Burning*

cc: M. Harbaugh, DES Legal Unit
R. Kurowski, EPA Region 1
P. Dorman, Plaistow Code Enforcement Officer
J. McArdle, Chief, Plaistow Fire Dept.
C. McGary, NHDES-WMD
Enforcement File